

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
CHICAGO, ILLINOIS**

MAY 15 2008
FILED
J.N. MAY 15 2008
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

Syed Moazzam Najeeb)
)
PLAINTIFF,)
)
V.)
)
)
Michael Chertoff, as the Director)
of the Department of Homeland Security;)
Emilio Gonzalez, Director of U.S.)
Citizenship and Immigration Services;)
Gerald Heinauer, Director of U.S.)
Citizenship and Immigration Services at)
the Nebraska Service Center; and)
Robert S. Mueller, Director of the)
Federal Bureau of Investigation,)
)
DEFENDANTS.)

No.:

A# 46 807 740

08CV2840
JUDGE MAROVICH
MAG. JUDGE NOLAN

PETITION FOR A RULING PURSUANT TO 8 U.S.C. SEC. 1361

The Plaintiff, Syed Moazzam Najeeb, by and through his attorney, Mazher M. Shah-Khan, respectfully requests for an order directing the Defendant to make a determination under 8 U.S.C. Sec. 1255, and also seek relief under the Administrative Procedure Act 5 U.S.C. Sec. 555(b) and 706(1), and declaratory relief under 28 U.S.C. Sec. 2201, following the Plaintiff's citizenship application, which was filed more than three years ago. In support of said request, the Plaintiff states as follows:

:

JURISDICTION AND VENUE

1. This is a civil action brought pursuant to 8 U.S.C. Sec. 1255 to redress the deprivation of rights, privileges and immunities secured to the Plaintiff, by which statutes jurisdiction is conferred, to compel the Defendant to perform a duty the Defendant owes to the Plaintiff.

2. Venue is also proper under 8 U.S.C. Sec. 1391(e), the Plaintiff is a resident of Illinois, and the Defendant is the Director of the Department of Homeland Security, which oversees the Citizenship and Immigration Services (CIS), an agency of the United States Government.

PARTIES

3. The Plaintiff, Syed Moazzam Najeeb, is a lawful permanent resident of the United States of America, his alien registration number is A46 807 740.
4. The Defendant is the Director of the Department of Homeland Security, which oversees the Bureau of Citizenship and Immigration Services (BCIS) of the United States. As such, he is charged with the duty of administration and enforcement of all the functions, powers and duties of BCIS.

CLAIMS FOR RELIEF

5. That the Plaintiff, a lawful permanent resident of the United States, timely applied for his naturalization with the Defendant, the former Immigration and Naturalization Service.
6. The Plaintiff's naturalization interview was conducted on December 12, 2005, and Officer Stathos, the immigration officer conducting the said interview, indicated that he had passed his naturalization interview, and handed him N-652, Naturalization Interview Results. (See the attached Exhibit A)
7. However, to this date no further response has been received from the Defendant, and the Plaintiff has not received his swearing-in ceremony appointment letter.
8. It has been more than two years since the Plaintiff passed his naturalization interview, and, yet no further determination has been made to date.
9. The Plaintiff made numerous personal inquires have elicited no response, except a standard letter stating that national security checks have not been completed. (See the attached Group Exhibit B.)
10. The Plaintiff has exhausted any administrative remedies that may exist.


WHEREFORE, the Plaintiff prays that the Court:

- A. Compel the Defendant and those acting under him to perform their duty to make a determination under 8 U.S.C. Sec. 1255, for relief under the Administrative

Procedure Act 5 U.S.C. Sec. 555(b) and 706(1), and declaratory relief under 28 U.S.C. Sec. 2201, following the Plaintiff's naturalization interview, which was conducted under such title almost three years ago.

- B. Grant him attorney's fees and cost associated with filing this complaint.
- C. Grant him such other and further relief as this Honorable Court deems to be Just in equity.

Respectfully submitted,



Mazher M. Shah-Khan
Attorney for the Plaintiff

Mazher M. Shah-Khan
The Law Office of Mazher M. Shah-Khan
Attorney for the Petitioner
P.O. Box 597315
Chicago, IL 60659

(773) 764-2500

CERTIFICATE OF SERVICE

I, Mazher M. Shah-Khan, hereby certify that I caused a true copy of the foregoing **Petition for a Ruling Pursuant to 8 U.S.C. Sec. 1255, 5 U.S.C. Sec. 555(b) and 706(1), and 28 U.S.C. Sec. 2201** to be served upon each of the following, *via* Fedcx, on February 2008:

Office of the General Counsel
U.S. Department of Homeland Security
Washington, DC 20528

U.S. Citizenship & Immigration Services
U.S. Department of Homeland Security
Office of the Chief Counsel
20 Massachusetts Ave., N.W. Room 4025
Washington, DC 20536

Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, DC 20530-0001

Assistant United States Attorney
Office of the General Counsel
219 South Dearborn Street
Chicago, IL 60604

Robert S. Mueller, Director
Federal Bureau of Investigation
800 F. Street Northwest
Washington, DC 20004

Gerald Heinauer, Director
Department of Homeland Security
Nebraska Service Center
850 "S" Street
Lincoln, NE 68501

I, Mazher M. Shah-Khan, declare, under penalty of perjury, that the foregoing is true and correct.



Mazher M. Shah-Khan

5/12/08

Date

Mazher M. Shah-Khan
Law Offices of Mazher M. Shah-Khan, P.C.
P.O. Box 597315
Chicago, Illinois 60659-73150

(773) 764-2500

A

Department of Homeland Security
U.S. Citizenship and Immigration Services

N-652, Naturalization Interview Results

A#:

46 807740

On 12/07/2005, you were interviewed by USCIS officer Stathos

☒ You passed the tests of English and U.S. history and government.

☐ You passed the tests of U.S. history and government and the English language requirement was waived.

☐ USCIS has accepted your request for a Disability Exception. You are exempted from the requirement to demonstrate English language ability and/or a knowledge of U.S. history and government.

☐ You will be given another opportunity to be tested on your ability to speak/ read/ write English.

☐ You will be given another opportunity to be tested on your knowledge of U.S. history and government.

☐ Please follow the instructions on Form N-14.

☒ USCIS will send you a written decision about your application.

☐ You did not pass the second and final test of your English ability/ knowledge of U.S. history and government. You will not be rescheduled for another interview for this Form N-400. USCIS will send you a written decision about your application.

A) **Congratulations! Your application has been recommended for approval.** At this time it appears that you have established your eligibility for naturalization. If final approval is granted, you will be notified when and where to report for the Oath Ceremony.

B) **A decision cannot yet be made about your application.**

It is very important that you:

☒ Notify USCIS if you change your address

☒ Come to any scheduled interview.

☒ Submit all requested documents.

☒ Send any questions about this application in writing to the officer named above. Include your full name, Alien Registration Number (A#), and a copy of this paper.

☒ Go to any Oath Ceremony that you are scheduled to attend.

☒ Notify USCIS as soon as possible in writing if you cannot come to any scheduled interview or Oath Ceremony. Include a copy of this paper and a copy of the scheduling notice.

NOTE: Please be advised that under section 336 of the Immigration and Nationality Act, you have the right to request a hearing before an immigration officer if your application is denied, or before the U.S. district court if USCIS had not made a determination on your application within 120 days of the date of your examination.

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B

U.S. Department of Homeland Security
USCIS
101 West Congress Parkway
Chicago, IL 60605



U.S. Citizenship and Immigration Services

Thursday, October 5, 2006

SYED NAJEEB
4630 RIVER ROAD
SCHILLER PARK IL 60176

Dear syed najceb:

On 09/21/2006 you, or the designated representative shown below, contacted us about your case. Some of the key information given to us at that time was the following:

Caller indicated they are:	The applicant
Attorney Name:	Information not available
Case type:	N400
Filing date:	Information not available
Receipt #:	lin-00-079-1885
Beneficiary (if you filed for someone else):	najceb, syed
Your USCIS Account Number (A-number):	A046807740
Type of service requested:	Case Status - Outside Processing Time

The status of this service request is:

The processing of your case has been delayed. A check of our records establishes that your case is not yet ready for decision, as the required investigation into your background remains open.

Until the background investigation is completed, we cannot move forward on your case. These background checks are required to be completed on all applicants who apply for the immigration benefit you are seeking. We will make every effort to make a decision on this case as soon as the background checks are complete. If you do not receive a decision or other notice of action from us within 6 months of this letter, please contact us by calling our customer service number provided below.

If you have any further questions, please call the National Customer Service Center at 1-800-375-5283.

Please remember: By law, every person who is not a U.S. citizen and who is over the age of 14 must also notify the Department of Homeland Security within 10 days from when they move (persons in "A" or "G" nonimmigrant status are exempt from this requirement). If you have moved, please complete a Form AR-11 and mail it to the address shown on that form. If you do not have this form, you can download it from our website or you can call the National Customer Service Center at 1-800-375-5283 and we can order one for you. If you move, please call us with your new address information as soon as your move is complete. If you have already called us and given us this information, you do not need to call again.

U.S. Citizenship and Immigration Services

U.S. Department of Homeland Security
USCIS
10 West Jackson Boulevard
Chicago, IL 60604



**U.S. Citizenship
and Immigration
Services**

Tuesday, March 7, 2006

SYED MOAZZAM NAJEEB
4630 RIVER RD
SCHILLER PARK IL 60176

Dear SYED MOAZZAM NAJEEB:

On 02/08/2006 you, or the designated representative shown below, contacted us about your case. Some of the key information given to us at that time was the following:

Caller indicated they are:	The applicant
Attorney Name:	Information not available
Case type:	N400
Filing date:	06/13/2005
Receipt #:	
Beneficiary (if you filed for someone else):	NAJEEB, SYED, MOAZZAM
Your USCIS Account Number (A-number):	A046807740
Type of service requested:	Case Status - Outside Processing Time

The status of this service request is:

The processing of your case has been delayed. A check of our records establishes that your case is not yet ready for decision, as the required investigation into your background remains open.

Until the background investigation is completed, we cannot move forward on your case. These background checks are required to be completed on all applicants who apply for the immigration benefit you are seeking. We will make every effort to make a decision on this case as soon as the background checks are complete. If you do not receive a decision or other notice of action from us within 6 months of this letter, please contact us by calling our customer service number provided below.

If you have any further questions, please call the National Customer Service Center at 1-800-375-5283.

Please remember: By law, every person who is not a U.S. citizen and who is over the age of 14 must also notify the Department of Homeland Security within 10 days from when they move (persons in "A" or "G" nonimmigrant status are exempt from this requirement). If you have moved, please complete a Form AR-11 and mail it to the address shown on that form. If you do not have this form, you can download it from our website or you can call the National Customer Service Center at 1-800-375-5283 and we can order one for you. If you move, please call us with your new address information as soon as your move is complete. If you have already called us and given us this information, you do not need to call again.

U.S. Citizenship and Immigration Services

Case # WTC 2640602 250506



**U.S. Citizenship
and Immigration
Services**

NOTE TO APPLICANTS REGARDING NATIONAL SECURITY CHECKS

A final decision cannot be made on any application for naturalization or adjustment of status to permanent resident until national security checks are complete and the local USCIS office receives a response.

National security checks are performed by federal agencies other than the United States Citizenship and Immigration Services (USCIS). Your local USCIS office has no control over the pace of completion of these required checks.

At any given time, there are many hundreds of this office's cases pending due to national security checks. A significant portion of these checks takes more than six months to complete. At the USCIS Chicago District Office, cases with pending security checks are queried every week to ensure that those whose checks have cleared are acted on in a timely manner.

The USCIS Chicago District Office requests that you wait at least 120 days from the date of your interview before making an inquiry regarding the status of your case, if you have been advised at your interview that your security check (or name check) is pending. Your cooperation helps us to use office personnel more efficiently to complete your case and others that are pending.

USCIS thanks you for your patience and understanding in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Comfort".

Michael M. Comfort
District Director